HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 3 of 2005

Dated: 06th October, 2005

Between:

P.Sai Shyam Prasad S/o.P.Murali Mohan, Student,

Gowthamnagar 1st Line, Dilsukhnagar, Hyderabad.

..... PETITIONER

AND

1.The Government of Andhra Pradesh, rep. by its Principal

Secretary, Department of Higher Education, Secretariat,

Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 3 of 2005

ORDER:

This writ petition has been filed by P.Sai Shyam Prasad with a prayer to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not regularizing the re-admission of the petitioner in Matrusri Institute of Post Graduate Studies-3rd respondent in spite of his passing ICET-2004 examination as arbitrary and illegal.

2. The petitioner secured admission in 3rd respondent-Institution in 2002-03 through

ICET-2002 examination. He could not secure minimum percentage of attendance during the year 2002-03. Therefore, he appeared for ICET-2004 entrance examination and secured re-admission in the 3rd respondent-Institution in the academic year 2004-05. It is the case of the petitioner that 3rd respondent-Institution permitted him to attend classes of first year M.B.A. course. Since the 2nd respondent-University did not permit him to take 1st year M.B.A. examination, he has chosen to approach this Court by invoking the jurisdiction under Article 226 of the Constitution of India.

3. The 2nd respondent-University filed counter affidavit. It is stated in the counter affidavit that the petitioner secured 34% of attendance during the year 2002-03. As per the rules in force, a minimum attendance required is 75%. I deem it appropriate to refer para.5 of the counter affidavit and it is thus:

> "5. It is humbly submitted that the petitioner was detained in MBA 1st year course during 2002-03 due to shortage of attendance. The petitioner had only 34% of attendance in place of minimum attendance of 75%. As per the rules in force, a letter was addressed by the University to the Respondent No.3 on 22.12.2004, wherein it was made clear that the students whose attendance is less than 40% will lose the seat and such student shall have to seek fresh admission through entrance examination by appearing for ICET. It was also made clear that the petitioner had only 34% attendance. Hence, the petitioner was under obligation to seek re-admission after passing the ICET entrance examination."

4. Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the 2nd respondent-University.

5. Learned counsel appearing for the petitioner submits that the petitioner appeared ICET-2004 entrance examination and secured 223 rank and thereafter re-admitted in the 3rd respondent-Institution and therefore, there cannot be any impediment to the 2nd respondent-University in permitting the petitioner to take 1st year M.B.A. examination subject to his securing 75% of the attendance.

6. Learned Standing Counsel appearing for the 2nd respondent-University submits

that unless the petitioner secures 75% attendance, he cannot be permitted to take 1st year M.B.A. examination.

7. As seen from the records, the petitioner produced copy of the letter addressed to the 2nd respondent-University by the 3rd respondent-Institution, where under it is stated that the petitioner secured 75% attendance. The 2nd respondent-University replied to the Principal of the 3rd respondent-Institution on 22.12.2004 clarifying that the 3rd respondent-Institution can give re-admission at the College level in case of the candidate qualifying in the ICET examination. I deem it appropriate to refer the relevant portion of the said letter and it is thus:

> "Through your letter cited, you requested to communicate approval of the University for seeking readmission to the following three students as they were detained in MBA I Semester during 2002-03 due to shortage of attendance:
>
> 1. Mr.NVSM Srikanth 0%
>
> 2. Mr.P.Sai Shyam Prasad 34%
>
> 3. Mr.P.Sandeep Reddy 46%
>
> In this connection I am to inform you that as per the attendance rule "Courses where the admissions are governed through an Entrance test, candidates of I year who do not have the minimum attendance of 40% would lose their seat and they will have to seek fresh admission through Entrance."
>
> Further, I am to inform you that the Principals of the Colleges need not refer the cases of students who were detained due to shortage of attendance (i.e. not less than 40%) or failure in the Examination. They may be given readmission at the College level subject to condition that they should put in 75% attendance afresh, join the college within four weeks from the commencement of classes and should complete the course within four academic from the year of original admission to the course. The DD No.229894 dt.22.12.04 for Rs.300/- is returned here with."

A certificate issued by the 3rd respondent-Institution has been placed on record stating that the petitioner secured 75% attendance during the academic year 2004-05. In that view of the matter, there can not be any impediment to the 2nd respondent-University in permitting the petitioner to take 1st year M.B.A. examination.

8. Accordingly, the writ petition is allowed directing the 2nd respondent-University to permit the petitioner to take 1st year M.B.A. examination subject to his fulfilling the required attendance. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 06th October, 2005.

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